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Q&A

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## 5 IMPORTANT YEAR-END REMINDERS FOR EDUCATORS

*1. Student records are confidential!* Educators may exchange records within the public education system (traditional public school to public school, charter school to traditional school, school district to school district, public school to higher ed. institution where student seeks or intends to enroll, etc.). Tech savvy educators MAY NOT take it upon themselves to access student records from schools where they do not work rationalizing that they can “retrieve” (or even hack) student information more efficiently than waiting for receipt of student records through conventional procedures. Educators should not allow student aids to access power school or record grades in teacher roll books or electronic data bases. Educators should never access student records for personal reasons: to know more about that older student my daughter is dating, to check my younger brother’s attendance records, to see if a student athlete in your neighborhood has a disability that would make him eligible for a local high school team, etc. Should educators accidentally access stu-

dent records or data, they should report their mistake to their building principal or to an appropriate district/charter school administrator. Educators should report unauthorized, unnecessary access of student records by other educators to school district administrators.

*2. Licensed educators must self-report arrests to their principals or district supervisors.* If an educator is arrested for a DUI, a domestic violence offense, trespassing, any drug-related offense, she is required under R277-516 to report the arrest within 48 hours to the building principal. Beginning January 31, 2013, failure to report an arrest may enhance the administrative penalty for the offense, as evaluated by the Professional Practices Commission.

*3. Educators should be thoughtful and cautious* before sharing personal opinions and values with students. For instance, an educator could choose to be a religious worshipping Christian, but he should not personally demand that students attend church, wear clothing with loud or proselytizing messages or talk to students

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## YOUR QUESTIONS

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**Q:** I am a junior high school counselor. If a student wants to talk to me about problems she has with her father, can I talk freely with the student?—Counselor

**A:** Utah law (and also federal law) provides that “a school employee” may not discuss family relationships with students **without written parental consent**. If you want to have discussions with a student about her family relationships—you must have the student’s parent’s permission [53A-13-302 (1) (e) Utah Code].

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**Q:** I teach music to 5th graders. We are planning a Christmas program.

Some parents have objected to a couple of the songs that they believe are “religious.” Can the 5th grade choir sing those songs—among others?—Music Teacher

**A:** Courts have answered this questions many times. Students can sing religious songs in school and in school programs. There should be a couple of protections for parents and students:

- a. The music and songs in a school program should be varied—all of the music should not be religious. Also, performing music from various religions does not address the problem. It is fair and reasonable that some parents object to **any** religious music.
- b. Students should be excused from religious numbers, upon request. Parents must under-

about religious experiences. An ethical educator should not criticize or demean specific religious beliefs—or religion generally—to students. Educators should allow students to express religious beliefs or messages **OUTSIDE** of the school curriculum and outside of class time. For instance, students can have a prayer circle before school starts. Students can participate in religious clubs or groups—even held on school property—before and after school. Students may have private conversations expressing opinions (even controversial opinions) about religious and personal values.

**4. Educators should behave professionally, civilly and appropriately** with students—

always. Teachers should not text individual students. Teachers should not belittle students, even in jest. Licensed educators should not use language with students that they would not share with the students’ parents, the educator’s spouse or a TV news personality. Teachers should not be in a room or in a car alone with a student. Teachers and coaches should not tickle, wrestle or engage in physical horseplay with students. Educators must discipline students appropriately, including intervening promptly when students bully or demean other students.

**5. Educators should remember all the things we both learn and teach in kindergarten.** Respond politely to students

and parents; keep our promises; be truthful; be respectful to colleagues and our students; do not be petty; follow the school rules; help the students who are hardest to help; and be fair in our grading and in our dis-



## HARASSMENT OFF CAMPUS

Tina Andersen was a middle school music teacher in Rochester, New York. She claimed that a 7<sup>th</sup> grade student at her school but not in her class, MR, harassed her and spread rumors about her. The rumors included statements that the teacher was sexually involved with another student. Plaintiff, Ms. Andersen, claimed that the student’s presence and the continuing rumors created a hostile working environment from which she should be protected by the school or school district. The 2<sup>nd</sup> U.S. Circuit Court of Appeals affirmed the lower court’s decision that the employing school district *was not* responsible for the former teacher’s frustration about the student and his actions toward her (Andersen v.

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## NOVEMBER BOARD ACTION

The Utah State Board of Education took formal action to reinstate the Educator License of Vardell Ray Reese

They Board also Suspended the license of Kylie Thomas Devey. Ms. Devey engaged in inappropriate communication and interaction with students, by driving students in her car, by spending time outside the school day with students, and by providing alcohol to students, who are minors, which resulted in a Class A Misdemeanor with the third district court.

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Rochester County School District May, 2012).

What this means: there was no evidence that the student harassed the teacher at school. The student did attend the same school where the teacher taught, but the student was not in the teacher's class, the teacher had no occasion to interact with the student at school and the student's harassment took place only outside of school. Courts have held that a harasser's mere presence in the victim's workplace is insufficient to show that an employer tolerated or was responsible to remedy an employee's hostile environment claims.

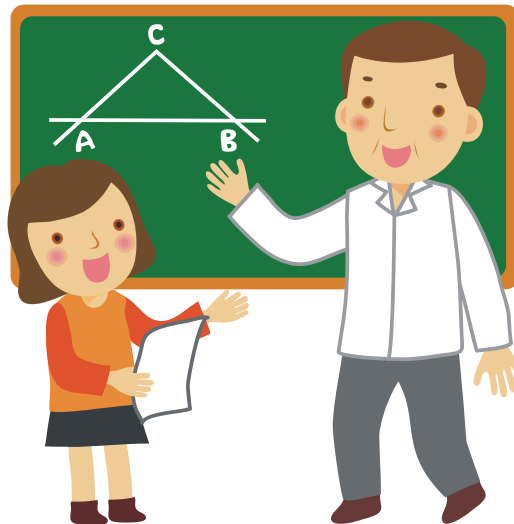
The court found that no incidents occurred at school, that the teacher had only complained "vaguely" to the employing school district about the student's harassment outside of school and that the teacher refused to return to school even after the student was sent to jail. Other courts have required employees to show that harassment "permeated [the] workplace with discriminatory intimidation, ridicule, and insult" before courts would agree that an employer was responsible for an employee's outside-of-the-workplace harassment. The harasser's mere presence in the workplace is not enough to prove that there is a hostile work environment.

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## WATCH YOUR MOUTH!

Probably very few educators ever plan on violating the [Utah Educator Standards](#) relating to appropriate communication and language. But then life happens: a particularly defiant student gets mouthy (again); a ref makes a controversial call at a game (to your team's detriment); a coworker undermines your efforts; a personal relationship goes awry; and that joking text or email you sent just doesn't look so funny to the recipient when viewed in the absence of your tone of voice or facial expressions.

While inappropriate language may not seem as glaring of an ethical violation as supplying alcohol to minors, having a sexual relationship with a student, or cheating on standardized exams, it still matters. A professional educator is required to "use appropriate language, eschewing profane, foul, offen-



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stand that there may be core objectives and standards that teachers must teach—parents will be responsible if students are excused from specific numbers.

**Q:** I am a high school teacher. Some **former** students are Facebook “friends.” My Facebook page is **not** password protected. Is there anything wrong with this practice?—Teacher on Facebook

**A:** Teachers are entitled to private lives. However, there have been many problems with educators interacting with young people through technology, including social networking. Educators should be very certain that their social interactions with young people should not take place while the students are high school age. Also, if an educator has a public social networking page—she must always have ap-

sive, or derogatory comments or language.” In particular, the Utah Educator Standards require professional educators to “resolve grievances . . . professionally and with civility,” whether the grievances be with students, colleagues, school community members or parents. In fact, all of an educator’s communications should conform to this civility standard.



Furthermore, the Utah Educator Standards generally forbid any “inappropriate contact in any communication – written, verbal or electronic – with a minor, student or colleague.” These standards also forbid a professional educator from participating in or allowing harassment of students or colleagues. And finally, these standards also require professional educators to maintain confidentiality concerning students.

In the past year, UPPAC has investigated and leveled discipline to one degree or another for language violations such as: swearing at referees or student athletes; calling special education students “retards”; talking to students excessively about an educator’s personal problems; sending text messages to students containing jokes with sexual innuendo; calling or texting a student’s cell phone at all hours of the night and day; carrying out a personal fight (replete with expletives, derogatory comments, and threats) using the educator’s school email account; and making unwelcome sexually suggestive comments to coworkers or subordinates. While recognizing understandable stressors or the often innocent intentions of educators, UPPAC reminds educators that their ethical obligations include using appropriate and civil language with all persons in their professional life.



## WHAT IS UPPAC?

*UPPAC is a committee of nine educators and two community members charged with maintain and promoting a high standard of professional conduct and ethics among Utah teachers. It is advisory to the Utah State Board of Education in making recommendations regarding educator licensing and may take appropriate disciplinary action regarding educator misconduct.*

*The Government and Legislative Relations Section at the Utah State Office provides information, direction and support to school districts, other state agencies, teachers and the general public on current legal issues, public education law, educator discipline, professional standards, and legislation.*

*Our website also provides information such as Board and UPPAC rules, model forms, reporting forms for alleged educator misconduct, curriculum guides, licensing information, NCLB information, statistical information about Utah schools and districts and links to each department at the State Office.*

